



Pesticide and Noxious Weed Newsletter

Summer 2006

Nebraska Department of Agriculture

Vol. 19

Final Stages of Endangered Species Protection Program for Pesticides

In November 2005, the U.S. EPA published in the *Federal Register* its intent to finalize the Endangered Species Protection Program (ESPP) for pesticides. This is the result of many years of work in developing a program to comply with the Endangered Species Act, which states that Federal agencies must ensure their activities will not result in harm to endangered or threatened species listed by the U.S. Fish and Wildlife Service, or to habitat critical to those species' survival. Also pushing the program are several lawsuits that have been filed against EPA, which allege that EPA has been negligent under the Endangered Species Act for not having a program to protect listed species. While completion of the

program is still in the works, it is moving closer, and applicators and growers should be aware of it and how it may affect them.

The success of the program hinges on information contained in endangered species Protection Bulletins, whereby pesticide use restrictions and species information will be relayed to the pesticide applicator. The information will be based on pesticide effect determinations made by EPA, meaning Protection Bulletins will only be developed for active ingredients when it is likely that their use, without additional restrictions, will harm threatened and endangered species or their habitat. In these cases, the label will direct applicators to call a toll free number or consult EPA's web site to obtain the bulletin that meets the county-active ingredient-time of application combination for any specific application. To allow applicators and growers to plan for potential restrictions, applicators will be able to request these bulletins up to six months prior to the application time. It will be the responsibility of the applicator to read the label to see if the endangered species language is present and, if so, to consult and comply with the bulletin. Restrictions in the bulletin will be enforceable, just as if they were on the label itself.

At the national level, EPA is still putting the finishing touches on this program, with input from representatives of grower groups, the pesticide industry, state and federal pesticide regulators, and the environmental community. It is likely

that it will be 6 to 18 months before pesticides registered in Nebraska will have the new endangered species language on the label and corresponding bulletins are available. Until then, the Nebraska Department of Agriculture (NDA) will be working with EPA to understand how the program will work and how it will affect our producers and applicators. We will likely be asking representatives of these same groups to provide input on bulletin development and how best to get this information to our pesticide users once bulletins are finalized.

Those interested in more information on the ESPP can access the following web sites:

EPA's November 2005 *Federal Register* notice announcing its intent to finalize the program - www.epa.gov/fedrgstr/EPA-SPECIES/2005/November/Day-02/e21838.htm

To see all of the background documents leading up to this decision, including the comments EPA has received, go to www.regulations.gov, and do an "advanced docket search" for OPP-2002-0311.

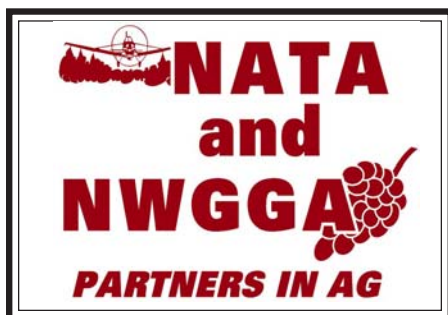
Pesticide labels for active ingredients having enforceable bulletins will direct applicators to EPA's web site (www.epa.gov/espp) and/or to the toll-free ESPP number (800-447-3813). NDA's endangered species web page (www.agr.ne.gov/division/bpi/pes/esgen.htm) will also contain this information.

Inside this Issue

Cooperative Problem Solving Effort Recognized	2
Now Available: Revised WPS How to Comply Manuals	2
Recent Changes to the Nebraska Pesticide Act	2
Fumigation Reminder	2
New Product Label for Prairie Dog Control	3
Web Links of Interest	3
Wellhead Protection Needed	4
New Partnerships Formed to Combat Noxious Weeds	4
Mark Your Calendars	5
2006 Pesticide Waste Disposal Program	5
Pesticide Label Restrictions Lists	5

Cooperative Problem-Solving Effort Recognized

In a unique effort of cooperation between aerial applicators and the rapidly expanding grape growing industry, the Nebraska Aviation Trades Association (NATA) and the Nebraska Wine and Grape Growers Association (NWGGA) are working together to inform their respective members about each others' activities. Vineyards, more so than many crops, are very susceptible to volatile herbicides that move off of the target site. NATA members didn't always know where the vineyards were located, and some grape growers were concerned about potential damage to their crop. The result? NATA purchased visible white



flags (see below) to be placed on the borders of vineyards, while the NWGGA began obtaining location information for their members to be provided to NATA. Pilots will now have a better idea where vineyards are located by having maps in hand and the flags on-site, and they can take extra precautions to prevent damage. These flags should also help identify sensitive vineyards to other, non-aerial herbicide applicators in the area.

NDA applauds this effort to minimize conflict between pesticide users and alternative crop producers. Keep up the good work!

Anyone interested in more information about this project can contact the following: NATA - (402) 475-6282, nata@alltel.net; or NWGGA - (308) 754-5654, mirettavineyards@charterinternet.com.

Now Available: Revised Worker Protection Standard How-to-Comply Manuals

EPA has released a revised version of the Worker Protection Standard (WPS) How-to-Comply manual. The new 2005 manual supersedes the 1993 version, which is now considered obsolete. The revised manual provides detailed information on who is covered by the WPS and how to meet regulatory requirements.

The new manual is available from these sources:

- Electronically from EPA via the web at: www.epa.gov/agriculture/htc.html;
- A paperback manual from NDA;
- As a CD-ROM through NDA. The CD-ROM version also contains:
 - EPA's WPS Worker Training Handbook (English/Spanish);
 - EPA's WPS Handler Training Handbook (English/Spanish);
 - EPA's *Recognition and Management of Pesticide Poisonings* handbook; and
 - Other related references.

The paperback or CD-ROM version of the new How-to-Comply manual can be acquired at no cost by contacting NDA at 877-800-4080.

New Fumigation Label Reminder

All current labels for phosphine-generating fumigants require:

- At least two certified applicators must be present during fumigation of structures when entry into the structure is required (i.e., to place fumigant or cover grain with plastic, etc.).
- All fumigated structures must be placarded.
- Placards may not be removed until the treated commodity is

(Continued next column)

aerated down to 0.3 ppm phosphine or less.

These rules apply to both Commercial and Private applicators. For more information, go to www.agr.ne.gov/division/bpi/pes/pest1.htm and look under the "certification and training" heading.

Recent Changes to the Nebraska Pesticide Act

Every few years, there are issues before the Department of Agriculture or our Legislature which lead to changes being made to the Nebraska Pesticide Act. During the past legislative session, Legislative Bill 874 made some changes to our Act. The changes were approved by the Governor and were effective as of July 14, 2006. Two of the changes significantly impact certification and licensing.

Mosquito control. The description of who needs to be licensed in the Public Health category to use either GUP or RUP pesticides for area-wide mosquito control was expanded. The wording now states, "An employee or other person acting on behalf of any political subdivision of the state shall not use pesticides for outdoor vector control unless the applicator is licensed" in the Public Health category. This change in definition means anyone applying mosquito product for any populated area, whether they are paid to perform this duty or not, will need to be certified and licensed in the Public Health category.

Issuing of reciprocal licenses. The following language was added: "The Department may issue a reciprocal license to a pesticide applicator licensed or certified in another state or by a federal agency." Note that the language does not state that reciprocal licenses are issued to Nebraska residents. Similar to the way driver's licenses are handled, once a pesticide applicator establishes residency in the state of Nebraska, that person will need to acquire a full Nebraska license. NDA will not be issuing reciprocal licenses to Nebraska residents.

New Product Label for Prairie Dog Control

Nebraska recently drafted a Section 24(c)/SLN label for Rozol Prairie Dog Bait. This label is a variant of Liphatech's Section 3 label, Rozol Pocket Gopher Bait (EPA Reg. # 7173-184). The NE Section 24(c)/SLN label for prairie dogs is classified as an RUP and has the EPA SLN # NE-060001.



Copyright © 2006 Conservation Commission of Missouri

Nebraska's SLN label for Rozol Prairie Dog Bait is not the same as Kansas' SLN label for the same product. Please note that the Kansas SLN label does not extend beyond the boundaries of Kansas and the Nebraska SLN label does not extend beyond our boundaries.

The Nebraska SLN label for Rozol

Prairie Dog Bait has the following conditions concerning use:

1. Bait may only be used between October 1 and March 15 during approved years.
2. Bait may only be applied to active prairie dog burrows.
3. Bait must be applied at least six inches down prairie dog burrows.
4. Applicator must return every one to two days to collect and bury dead or dying prairie dogs.
5. Carcasses must be buried at least 18 inches deep.
6. Any non-target animals killed must be reported to NDA.

This SLN label was approved on the condition that it would be accompanied with research to support its continued use.

Purchase of this product for prairie dog control must be accompanied by the NE 24(c)/SLN label.

TAKING A CLOSER LOOK:

What are the different sections of FIFRA as they apply to labeling?

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) is a lengthy document with several

sections. Section 3 addresses the registration of pesticides. Section 18 addresses emergency exemptions. Section 24 addresses special authority given to states to approve local need labels.

When we look at product labels, there are at least three kinds of labels we would commonly see. Labels we call "Section 3" labels are found on products which are registered with EPA through their normal procedures. These labels represent over 99% of the labels in the market place.

Labels we call "Section 18" labels allow a product to be used to address a unique need, typically during a pest emergency. These labels are usually only approved by EPA for use during a given season or year, but can be extended for a longer period of time if the emergency persists.

Labels we call "Section 24(c)" are drafted and approved by a state for special local needs within that state. These are also called State Local Need (SLN) labels.

Web Links of Interest

- Tuttle Creek Lake Targeted Watershed Grant awarded to Kansas and Nebraska for reducing pesticides, nutrients, and pathogens in surface water (Big Blue and Little Blue River basins) - www.deq.state.ne.us/ and www.epa.gov/owow/watershed/initiative/
- 2006 National CREP Forum, "CREP: Creative Solutions, Multiple Resources, Many Partners," August 14-17; Lincoln, Nebraska - www.agr.ne.gov/crep/crep.htm - CREP is the Conservation Reserve Enhancement Program, a Federal-State natural resource conservation program to address State and nationally significant agricultural-related environmental problems
- Manage Insects on Your Farm: A Guide to Ecological Strategies - www.sare.org/publications/insect/insect.pdf (4.4 MB)
- Internet Center for Wildlife Damage Management providing research-based information for wildlife damage problems - www.icwdm.org
- EPA's Poison Prevention Resources - www.epa.gov/pesticides/health/ppweek-lockit.htm
- More Poison Prevention Resources - www.poisonprevention.org/materials.htm
- UNL to develop ecological index for organic farming research - snr.unl.edu/information/snrsnewsletterarchive/Links-Winter2005Vol%206.pdf
- Appropriate Technology Transfer for Rural Areas (ATTRA) – information on production practices, alternative crop and livestock enterprises, innovative marketing, organic certification, highlighting local, regional, USDA, and other federal sustainable agriculture activities - www.attra.org/
- CRP turns 20; includes CRP success stories by state and a photo gallery - www.fsa.usda.gov/crp20/index.asp
- Hort Update, a free e-newsletter from UNL Extension - ExtensionHorticulture.unl.edu
- UNL's Integrated Pest Management newsletter/electronic list serve - nerec.unl.edu/ipm/ipm1.htm
- Requesting a Reciprocal License from NDA (brochure) - www.agr.ne.gov/division/bpi/pes/reciprocal.htm
- Edison Electric and Federal Agencies to Reduce Pesticide Use on Rights-of-Way - www.eei.org/ and www.epa.gov/pesticides/
- Granular Know How, available as a video or pamphlet, a guide to responsible use of granulars - www.gardening123.com
- UNL Termite School; Lincoln - lancaster.unl.edu/pest/termiteschool.shtml

Wellhead Protection Needed

During the spring planting months of April and May, NDA pesticide inspectors discovered a number of commercial and private applicators ignoring wellhead setbacks found on restricted-use corn herbicide labels. These violations were found during routine pesticide application observations where the inspector notifies the applicator that an observation will be made. Products containing alachlor, atrazine, dicamba, metolachlor, and s-metolachlor all have 50-foot setbacks from all wellheads, whether the well is used or not. See the label restrictions article on page 5 for a listing of these types of restrictions and the products to which they apply.

It is understandable if an applicator applies herbicides to a field next to a farmstead with a wellhead hiding in the fenceline grass, but this does not exclude the applicator from following the label directions. Many of our observations found direct applications over large and obvious wellheads in fields. It has been over

ten years since EPA mandated wellhead setbacks for atrazine, and, in that time, NDA found gradually improving compliance as more and more applicators received the word in certification training. However, the recent spate of wellhead setback violations appears to indicate intentional disregard for label restrictions. NDA will pursue enforcement action against any applicator, private or commercial, who applies products to areas prohibited on the label. It is a ground and surface water protection measure we simply cannot afford to relax on, as continued contamination of water resources can and will result in additional restrictions, or potentially, a total loss of the use of the herbicides causing the problem.

Numerous resources are available to applicators to assist them in making wise decisions. For the examples listed above, the registered well database available on the Department of Natural Resources web site (www.dnr.ne.gov/

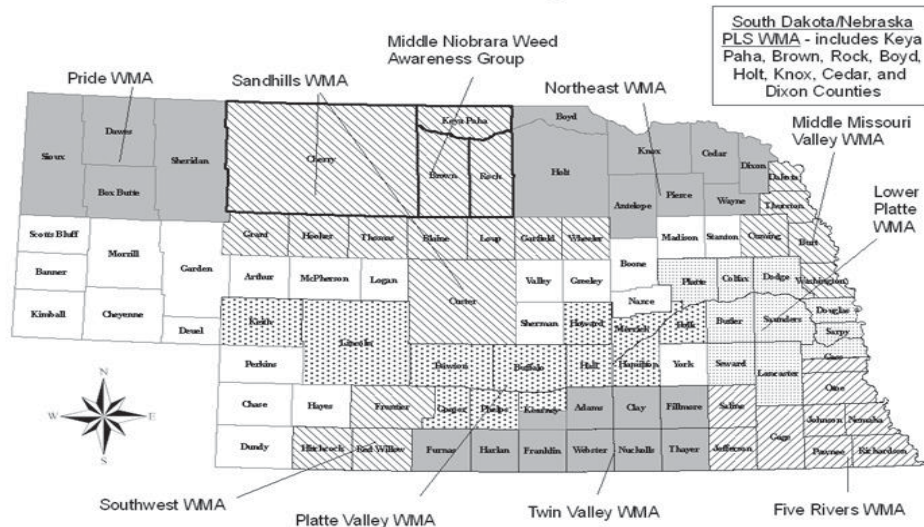
databank/inter_active.html) should be checked prior to each application. This web site contains an interactive mapping function where the user can zoom in to the application site and plot registered wells along with many other map features, including roads, streams, section boundaries, and even color imagery. The resulting map could be retained as part of the application record. Another tool at this site is the ground water level database, which contains historical and more recent ground water level measurements. This, along with a soil survey, could be useful in determining whether soils/organic matter/depth to ground water restrictions would prohibit an application at a particular site.

Other resource tools are listed in the water quality restrictions document mentioned on page 5 of this newsletter. People having questions concerning these resources or label restrictions are encouraged to call the pesticide program staff at (402) 471-2394.

New Partnerships Formed to Combat Noxious Weeds

Nebraska has experienced the formation of several weed management areas (WMAs) across the state to battle noxious weeds. These WMAs have been formed to create partnerships, share resources, and to be competitive for local and federal grants. Several WMAs have received grants over the past three years. These groups have worked with private, state, and federal landowners to control noxious weeds in a large geographical area. These control efforts are designed to assist landowners in controlling noxious weeds. However, these programs are not designed as a cost-share program but, instead, to help landowners develop a coordinated control program. Currently, there are 11 active WMAs in 71 counties in the state. More information can be found at www.neweed.org.

Nebraska Weed Management Areas



Mark Your Calendars!

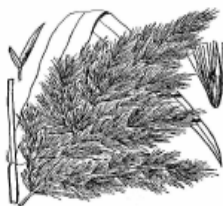
The Threats to Nebraska Rivers: Invasive Plants

conference will be held in Kearney, August 22-23, 2006. Intended to create an awareness and

a broad sense of ownership and responsibility for managing plant invaders of riparian areas along Nebraska rivers, this conference will feature topics on impacts of plant invaders, landowner responsibilities, ownership of streambeds, and assessing/ mapping the

problem. In addition, the following questions will be addressed: Should we be concerned? What can be done? and Where do we go from here?

A tour to see infestation problems and to demonstrate pesticide applications by airboat, helicopter, and four-wheeler is planned. Those interested should visit www.newweed.org/ for registration information.



USDA NRCS Plants database
(<http://plants.usda.gov/>)



University of Florida



William M. Ciesla, www.forestryimages.org

2006 Pesticide Waste Disposal Program

The spring of 2006, once again, developed into a successful collection program for Nebraskans who wished to dispose of unwanted or unusable pesticides. This was the ninth year that a program was held in Nebraska since the initial program was held in 1995. This program has been jointly sponsored by NDA, University of Nebraska Cooperative Extension, and the Nebraska Agri Business Association. The 2006 program accounted for 118,799 pounds of product being collected which, when added to previous collection amounts, brings the total amount collected since 1995 to 2,224,942 pounds.

NDA has been extremely fortunate to obtain funding for this project over the years. Grants from the Nebraska Environmental Trust and the U.S. Environmental Protection Agency, with additional funding provided by

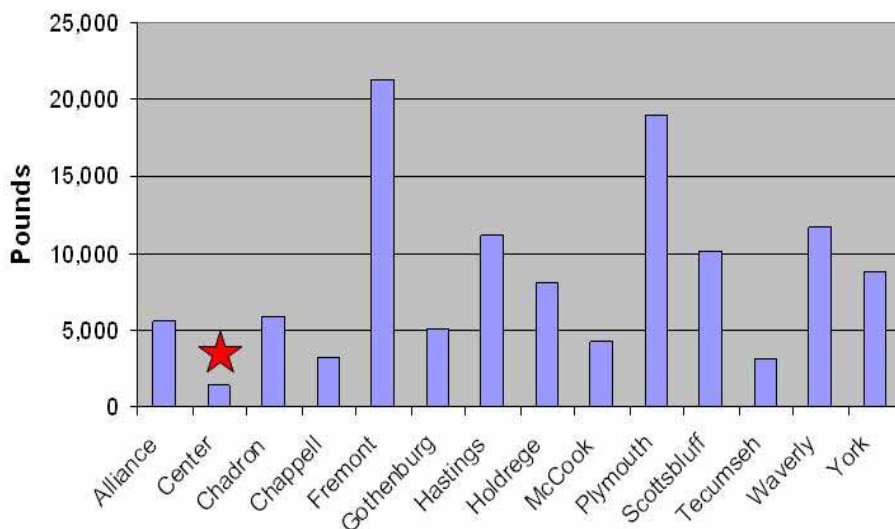
NDA, have made these programs possible.

All previous collection programs held have been conducted normally in the months of March and April. Due to extreme, heavy amounts of snow received this past April; four collection site events were canceled.

NDA expects to conduct a fall collection program this year for producers who live in the Norfolk, Columbus, and Fullerton area. The exact dates and locations will be determined in the next few months. NDA encourages anyone having unwanted or unusable pesticides to take advantage of these opportunities. Depending upon the amount of product an individual brings to a collection site, there normally are no fees charged for those who participate.

If you have any questions, please call the Bureau of Plant Industry at (402) 471-2394.

2006 Waste Pesticide Collection



★ - Mostly snowed out

Site

Pesticide Label Lists for Specific Use Requirements

NDA has developed lists of specific, enforceable use requirements using a label text search utility offered through a subscription service. To date, two lists have been developed: one for posting sign requirements for protecting field workers and public areas; and one for restrictions to protect the quality of ground and surface waters. These lists were developed to raise the awareness of pesticide users of the types of restrictions found on pesticide labels. They can be found by clicking on the "new" link at the top of www.agr.ne.gov/division/bpi/pes/pest1.htm. A link can also be found under the "pesticide labels" heading about halfway down.

Did you know? Conferences, meetings, and other events that involve Nebraska agriculture are often posted on NDA's web calendar. Go to www.agr.ne.gov and look for the link in the blue bar at the top of the page.

**Department of Agriculture
Noxious Weed Program
(402) 471-2394**

Mitch Coffin - Manager

DaLene Wiess - Pesticide and Noxious
Weed Program Staff Assistant

Ron Bouska - (north central)
(402) 925-2157

David Boschult - (northeast)
(402) 887-4789

Chan Komarek - (south central)
(308) 384-2933

Cris Burks - (west)
(308) 487-5520

Tom Neill - (southwest)
(308) 856-4293

*This newsletter is posted on NDA's web
page shortly after it is published. If you
would rather view it on-line instead of
receiving a hard copy, please follow the
directions at the web site listed below,
and we will notify you of the next
publication.*

Website: www.agr.ne.gov/division/bpi/pstnx/news.htm

**Department of Agriculture
Pesticide Program Staff
(402) 471-2394**

Tim Creger - Manager

Buzz Vance - Certification/WPS Training

Craig Romary - Groundwater/Buffer Strip/
Endangered Species

Gail Lowery - Product Registration/
Dealer Licenses

Herbert Bates - Case Review Officer

Inspectors:
Kevin Holdorf - (Omaha metro region)
(402) 253-3948

Rich Franchini - (north central region)
(402) 529-6808

Clayton Haman - (southeast region)
(402) 471-2394

Jeff Elsen - (Panhandle region)
(308) 254-7640

Eric Fuentes-Ruiz - (southwest region)
(308) 995-2158

T*his newsletter is available in other formats
for persons with disabilities upon request. For
an alternate format or for additional information
on topics in this publication, please call the
Nebraska Department of Agriculture at
(402) 471-2394.*

*TDD users can contact the Department by first
calling the Nebraska Relay System. Telephone
(800) 833-7352 and asking the operator to call
(402) 471-2394.*

**Greg Ibach, Director
Craig Romary, Editor**

PRSR STD
U.S. POSTAGE
PAID
LINCOLN, NE
PERMIT NO. 212

Nebraska Department of Agriculture
Bureau of Plant Industry
P.O. Box 94756
Lincoln, NE 68509-4756